

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

LARRY EARL MILLER,

Plaintiff,

v.

MIKE HALEY, et al.,

Defendants.

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CV 02-JEO-434-M

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

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**MEMORANDUM OF OPINION**

The magistrate judge filed a report and recommendation on June 12, 2002, recommending that plaintiff's access to court claims against defendants Haley, Hooks, and Garrett in their official and individual capacities be dismissed. It was further recommended that plaintiff's access to court claims against defendant Derrick in his official capacity be dismissed. Finally, it was recommended that plaintiff's access to court claims against defendant Derrick in his individual capacity be referred to the magistrate judge for further proceedings. The plaintiff filed objections on June 25, 2002.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections thereto, the Court is of the opinion that the factual findings in the magistrate judge's report are due to be amended in the following manner:

1. Footnote 1 to the magistrate judge's report and recommendation should reflect case number "97-C-1689," instead of case number "97-A-634-S."

Regardless of the amendment to the magistrate judge's findings of fact, the court finds that the magistrate judge's conclusions of law are due to be ADOPTED and his recommendation is due to be ACCEPTED. Therefore, all of the plaintiff's claims in this action except the access to court claims against defendant Derrick in his individual capacity are due to be DISMISSED pursuant to

28 U.S.C. § 1915A(b). Further, the access to court claims against defendant Derrick in his individual capacity are due to be REFERRED to the magistrate judge for further proceedings. An appropriate order will be entered.

DATED this 16<sup>th</sup> day of July, 2002.



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EDWIN L. NELSON  
UNITED STATES DISTRICT JUDGE